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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,518	08/04/2003	Jason Ewell	03292.101780.	6884

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FITZPATRICK CELLA (AMEX)  
30 ROCKEFELLER PLAZA  
NEW YORK, NY 10112

EXAMINER
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ALVAREZ, RAQUEL

ART UNIT	PAPER NUMBER
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3688

MAIL DATE	DELIVERY MODE
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10/08/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/634,518

Applicant(s)

EWELL ET AL.

Examiner

Raquel Alvarez

Art Unit

3688

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period **will** apply and **will** expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply **will**, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 7/10/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 7/25/2008.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date: \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. This office action is in response to communication filed on 7/10/2008.
2. Claims 1-10 are presented for examination.

#### **Claim Rejections - 35 USC § 103**

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al (6,128,599 hereinafter Walker) in view of Forward (6,578,011 hereinafter Forward).

With respect to claims 1, 9 and 10, Walker teaches a system comprising a financier and a merchant facilitating distribution of incentives from a merchant to a parent (Abstract). Said financier is in combination with said merchant, said merchant is communication with a subsidiary, and said subsidiary is financially related to a parent (Figure 1); said financier is configured to facilitate the receipt, maintenance and provision of incentive information regarding one or more incentives to be provided to said parent, said incentive configured to encourage one or more behaviors by said subsidiary (i.e. sponsors 110 encourage behaviors of affinity group members 112); said merchant is configured to receive financial information from said subsidiary, forward said financial information to said financier, receive said incentive information from said

financier, and provide one or more incentive to said parent, said one more incentive based at least in part of said incentive information (see Figures 3-8).

With respect to the newly amended feature of said parent is constructed to forward said one or more incentive to the subsidiary. Walker teaches on col. 4, lines 15-21 sponsor 110(parent) receiving a reward offer based on the performance of the affinity group members 112 (subsidiary). Walker is silent as the sponsor (parent) being constructed to forward the incentive earned to the subsidiary (affinity group members). Forward teaches the entity receiving the reward (i.e. item locator system 12) sharing the reward (commission/fee) with buyer 10. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included said parent being constructed to forward said one or more incentive to the subsidiary in order to motivate the buyers (subsidiary) to make purchases using the system.

With respect to claims 6-7, Walker further teaches wherein said financial information is configured to identify a credit card/charge account (See Figures 1-2).

Claim 2 further recites said parent is an employer of said subsidiary. Walker teaches that the sponsors/subsidiary are church groups, alumni association, youth group and professional association. Walker doesn't specifically teach an employer. Official Notice is taken that it is old and well known for employers to assure responsibility for the transactions of their employees. It would have been obvious to a

person of ordinary skill in the art at the time of Applicant's invention to have included said parent to be an employer in order to obtain the above mentioned advantage.

Claim 3 further recites said parent is a guardian of said subsidiary. Walker teaches that the sponsors/subsidiary are church groups, alumni association, youth group and professional association. Walker doesn't specifically teach a guardian. Official Notice is taken that it is old and well known for guardians to assure responsibility for the transactions of a person or child under their care . It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included said parent to be a guardian in order to obtain the above mentioned advantage.

Claims 4-5 further recite that said merchant is an airline and that said incentive comprises one or more discounts redeemable for travel services. Walker teaches providing reward offers/discounts for transactions. Walker doesn't specifically teach that the transactions are with an airline and that the offer/discounts id for travel services. Official Notice is taken that free travel mileages and the like are old and well known to encourage airline transactions. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included the merchant to be an airline and for the incentive to be redeemable for travel services in order to obtain the above mentioned advantage.

Claim 8 further recites that said financial information is configured to identify a debit card account. Walker teaches identifying a credit card/charge card account (Figures 1-2). Walker doesn't specifically teach a debit card account. Official Notice is taken that debit cards are old and well known to be used to withdraw cash and make purchases without having to pay interest charges. It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to have included changing the charge/credit card of Walker with the well known debit card in order to avoid paying finance charges.

### **Conclusion**

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

**Point of contact**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raquel Alvarez whose telephone number is (571)272-6715. The examiner can normally be reached on 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James w. Myhre can be reached on (571)272-6722. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raquel Alvarez/  
Primary Examiner, Art Unit 3688

Raquel Alvarez  
Primary Examiner  
Art Unit 3688

R.A.  
9/30/2008